IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 1185 of 2004 (M/B)

Ravindra Sharma S/o Sri Madan Mohan Lal,
R/o House No. J.F.H.-1, Barrage Colony,
Haridwar. …….. Petitioner

Versus

1. State of Uttaranchal,
   through Collector, Haridwar.
2. Tehsildar, Haridwar.
3. Executive Engineer,
   Upper Ganga Canal,
   Modern Division, Haridwar,
   District Haridwar. …… Respondents

Mr. Lok Pal Singh, Advocate for the petitioner.
Mr. Subhash Upadhyaya, Standing counsel for respondents Nos. 1 and 2.
Ms. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Lok Pal Singh, Advocate for the petitioner.

Mr. Subhash Upadhyaya, Standing Counsel for respondents Nos. 1 and 2.

Ms. Beena Pandey, Standing Counsel (U.P. Govt.) for respondent No. 3.

They are heard.

2. The petitioner has filed this writ petition for the following reliefs:

> "I) Issue a writ, order or direction in the nature of certiorari to quash the citation dated 01.11.2004 contained annexure no. 2.
>
> ii) Issue a writ, order or direction in the nature of mandamus commanding / directing the respondent nos. 1 and 2 that they do not arrest the petitioner in connection of the citation dated 01.11.2004 (annexure no. 2) issued by the respondent no.2.
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> iii) Any other relief, which this Hon'ble Court may deem fit and proper in the circumstances of the case, be passed in favour of the petitioner.

iv) Cost of the petition be awarded in favour of the petitioner."

3. The matter relates to the recovery of an amount of Rs. 41,540/- as penal rent from the petitioner for the accommodation occupied by him unauthorisedly after his transfer.

4. Petitioner Ravindra Sharma was appointed as Assistant Engineer in the Irrigation Department and was allotted House No. J.F.H.-1, Barrage Colony, Mayapur, District Haridwar. The petitioner was transferred from Haridwar to Rishikesh and was relieved on 01.11.2000. In spite of his transfer from Haridwar, the petitioner did not vacate the above accommodation. On his request, the petitioner was permitted to retain the above accommodation till 30th June, 2002 on payment of normal rent and other charges. Though there was no such permission after 30th June, 2002, the petitioner continued to occupy the said accommodation. As such, the petitioner was charged penal rent from 1st July, 2002 to 30th September, 2004.

5. Admittedly, the petitioner did not obtain any permission to occupy the above accommodation after 1st July, 2002. We, therefore, do not find any illegality in the recovery of the sum of Rs. 41,540/- as penal rent from the petitioner for the period from 1st July, 2002 to 30th September, 2004.

6. The writ petition, therefore, is liable to be dismissed and is, hereby, dismissed.

(Prafulla C. Pant, J.) 19.05.2006

(Rajeev Gupta, C.J.) 19.05.2006

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